IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 13715 of 1995

Between:

R.Narsimhulu Naidu S/o Siddama Naidu, agriculture
R/o.Pantapalle, H/o Polavaram,
Puthalpat Mandal, Chittoor, Chittoor District.

..... PETITIONER

AND

1 The Deputy registrar/Officer on Special Duty,
District Co-operative Central Bank Limited, Chittoor,
Chittoor District.
2 The Secretary,
Puthalpat Primary Agricultural Co-Operative Society Puthalpat, Puthalpat Mandal, Chittoor District.
3 The Sale Officer,
District Co-operative Central Bank, (DCCB),
Chittoor, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of MANDAMUS to declare the notice of sale of immovable property dt. 16.6.1995 of the 1st respondent as illegal, unjust and contrary to law and consequently directing the respondents not to enforce the same.

Counsel for the Petitioner: MR.S.V.MUNI REDDY

Counsel for the Respondents: MR P.M GOPALA RAO

The Court made the following:

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 13715 OF 1995

ORDER:

The present writ petition is filed questioning the sale notice dated 16-6-1995 issued by the first respondent herein.

The facts in brief which led to filing of the present writ petition are that the petitioner approached the second respondent society for grant of loan for construction of a poultry shed and the same was granted and the second respondent issued the first instalment of the loan. That the petitioner constructed the poultry shed upto lintel level and could not commence the poultry establishment due to non release of the rest of the instalments by the second respondent. The petitioner claims to have paid a sum of Rs.5000/- towards the loan instalment, apart from his share capital and alleges that the said amount was not properly accounted for and the second respondent wrongly determined the due amount and without issuing any notice or conducting an enquiry passed an award. Since, the award amount was not paid by the petitioner, execution proceedings were initiated and in pursuance thereof the impugned notice dated 16-6-1995 was issued by the first respondent proposing to sell the immovable property of the petitioner. Questioning the said notice, the present writ petition is filed.

This Court while admitting the writ petition by order dated 5-7-1995 granted interim stay on condition of the petitioner depositing 50 % of the amount demanded within eight weeks from the date of the order. Thereafter, the respondent filed a vacate stay petition in W.V.M.P.No.2129 of 1996.

Since, the petitioner has not complied with the conditional order dated 5-7-2995, this Court by order dated 30-12-1996 vacated the interim order dt 5-7-1995.

The second respondent filed counter affidavit denying the allegations made by the petitioner and furnishing the details of the loans obtained and the payments made by the petitioner. It is stated that the petitioner has obtained three loans and committed default, as such the second respondent filed an application under section 71 of the A.P.Cooperative Societies Act and the first respondent/arbitrator has issued a notice

dt 27-9-1994 and the same was served on petitioner. Since, the petitioner failed to appear and participate in the proceedings, the first respondent passed an Award dated 17-10-1994. Based on the said award, the second respondent initiated execution proceedings in E.P.No.3053 of 94-95 dated 13-3-1995 and sent the copy of the petition under certificate of posting on
7-11-1994. As regards not extending the benefits of Agricultural Debt Relief Scheme to the petitioner, it is stated that the petitioner has not complied with the conditions laid down in the said scheme and is not entitled to receive the said benefits.

In view of the averments in the counter, the allegations made by the petitioner in the writ petition cannot be countenanced. The writ petition deserves no consideration and the same is dismissed. No costs.

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N.V.RAMANA,J

29-09-2004

TVK

To

1 The Deputy registrar/Officer on Special Duty,
District Co-operative Central Bank Limited, Chittoor,
Chittoor District.
2 The Secretary, Puthalpat Primary Agricultural Co-Operative Society,
Puthalpat, Puthalpat Mandal, Chittoor District.
3 The Sale Officer, District Co-operative Central Bank, (DCCB), Chittoor, Chittoor District.

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